



State of Washington
PUBLIC DISCLOSURE COMMISSION

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9:00 a.m.
October 28, 2003

MINUTES – REGULAR MEETING

Evergreen Plaza Bldg. Room 206
711 Capitol Way South
Olympia, Washington

COMMISSION MEMBERS PRESENT

Susan Brady, Chair

Via Telephone:
Lois Clement, Vice Chair
Earl Tilly, Secretary
Francis Martin, Member
Michael Connelly, Member

STAFF PRESENT

Vicki Rippie, Executive Director
Susan Harris, Assistant Director
Michael Smith, Chief Technology Officer
Nancy Krier, Senior Counsel
Linda Dalton, Sr. Asst. Attorney General
Ruthann Bryant, Secretary

The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Susan Brady at 9:00 a.m. in the Evergreen Plaza Building, Room 206, Olympia, Washington.

Commissioner Comments

No commissioner comments or concerns were expressed.

Citizen Comments/Concerns

No citizen comments or concerns were expressed.

Minutes

Motion 04-035

Moved by Commissioner Tilly, seconded by
Commissioner Martin:

**The Commission adopts the minutes
of the special meeting of September
3, 2003, as written.**

The motion passed unanimously.

Motion 04-036

Moved by Commissioner Clement, seconded by
Commissioner Connelly:

**The Commission adopts the minutes
of the special meeting of September
25, 2003, as written.**

The motion passed unanimously.

Rule Making
Public Hearing

*WAC 390-05-400 Changes in
Dollar Amounts*

Mr. Ellis briefly summarized RCW 42.17.690 which
requires the Commission to increase or decrease
the dollar amounts established by Initiative 134 at
the beginning of each even-number year and
provided recommended dollar amounts to reflect
inflationary changes.

If approved, staff will file the CR 103 Rule-Making
Order with the Code Reviser's Office and the rule
will become effective January 1, 2004.

Motion 04-037

Moved by Commissioner Clement, seconded by
Commissioner Tilly:

**The Commission amends WAC 390-
05-400 Changes in dollar amounts, as
presented, effective January 1, 2004.**

The motion passed unanimously.

Chapter 390-37 WAC –
PDC Enforcement Hearing Rules

Assistant Attorney General Nancy Krier reported
that the new rules and amendments update the
enforcement hearing rules to comply with both the
Administrative Procedures Act as well as with
current case law. She briefly summarized each of
the proposed new and amended PDC

enforcement hearing (adjudicative proceeding) rules:

- WAC 390-37-001 *Enforcement Cases – Jurisdiction.* New rule explaining the PDC's jurisdiction, and that it does not hear public records disputes over which the superior courts have exclusive jurisdiction.
- WAC 390-37-010 *Enforcement procedures -- Policy.* Amendment to encourage participants to consider alternative resolution or partial resolution procedures.
- WAC 390-37-030 *Enforcement procedures -- Status of citizen complainant and others.* Amendment to reflect case law developments on citizen action complaints.
- WAC 390-37-040 *Enforcement procedures -- Procedures for filing citizen complaints.*
- WAC 390-37-041 *Enforcement procedures – Allegations submitted to the Attorney General's Office and/or prosecuting attorneys.* New rule explaining the tolling provisions set out in case law for citizen action complaints, and to explain the Commission's options.
- WAC 390-37-050 *Enforcement procedures -- Respondent's notice of complaint.*
- WAC 390-37-060 *Enforcement procedures -- Investigation of complaints -- Initiation of hearing.*
- WAC 390-37-070 *Enforcement procedures -- Complaints dismissible by executive director.*
- WAC 390-37-090 *Informal settlement -- Cases resolvable by stipulation.* Amendment explaining stipulations and settlements, encouraging resolution of cases without further litigation where appropriate, and stating what the presumption will be if the Commission directs a sanction or other step as the result of a stipulated agreement and no objection is lodged.

WAC 390-37-100	<i>Enforcement procedures -- Conduct of hearings.</i> Amendment explaining more details of hearing procedures.
WAC 390-37-103	<i>Commission options following receipt of a staff report on alleged violations.</i> New rule explaining current practices and statutes upon Commission receipt of alleged violations.
WAC 390-37-105	<i>Prehearing conference -- Rule.</i> Amendment explaining prehearing conference procedures.
WAC 390-37-120	<i>Enforcement hearings -- Subpoenas -- Discovery -- Hearings.</i>
WAC 390-37-130	<i>Enforcement hearings- Depositions and interrogatories -- Right to take.</i>
WAC 390-37-132	<i>Enforcement hearings - Depositions and interrogatories -- Notice.</i>
WAC 390-37-136	<i>Production of documents and use at hearing.</i>
WAC 390-37-140	<i>Brief enforcement hearings -- Authority.</i> Amendment providing reference to penalty schedules for brief adjudicative proceedings.
WAC 390-37-142	<i>Brief enforcement hearing-- Procedure.</i>
WAC 390-37-144	<i>Brief enforcement hearing -- Administrative review procedures.</i> Amendment explaining how the Commission will hear reviews for brief adjudicative proceedings when the statutory time periods have expired, but when a reconsideration option is still available.
WAC 390-37-150	<i>Reconsideration and review of decisions.</i> Amendment explaining the criteria for reconsideration.
WAC 390-37-155	<i>Electronic Filing Brief Enforcement Hearing Penalty Schedule.</i>
WAC 390-37-160	<i>Statement of Financial Affairs (F-1) Penalty Schedule.</i>

WAC 390-37-165	<i>Candidate Registration Statement (C-1) Candidate Statement of Financial Affairs (F-1) Penalty Schedule.</i>
WAC 390-37-170	<i>Lobbyist Monthly Expense Report (L-2) Penalty Schedule</i>
WAC 390-37-175	<i>Lobbyist Employer Report (L-3) Penalty Schedule.</i>

Mr. Ellis noted that an additional proviso has been added to each of the penalty schedules, WAC 390-37-155 through WAC 390-37-170 to clarify the meaning of "occasion." It now reads "*Occasion' means established violation. At the 4th occasion, among other factors, the commission may consider if any prior violations and penalties were stipulated to by the respondent, in determining the amount of the penalty.*"

If approved, Staff will file a CR 103 Rule-Making Order with the Code Reviser's Office and the rules would become effective 31 days after filing.

Staff recommended minor changes to the following five proposed rules:

WAC 390-37-010 Enforcement procedures – Policy.

WAC 390-37-070 Enforcement procedures – Complaints dismissable by executive director.

WAC 390-37-100 Enforcement procedures – Conduct of hearings.

WAC 390-37-105 Prehearing conference – Rule.

WAC 390-37-144 Brief enforcement hearing – procedure.

No one signed up to testify on the rules.

Motion 04-038

Moved by Commissioner Tilly, seconded by Commissioner Martin:

The Commission accepts the recommended changes to proposed:

WAC 390-37-010
WAC 390-37-070
WAC 390-37-100
WAC 390-37-105
WAC 390-37-144

The motion passed unanimously.

Motion 04-039

Moved by Commissioner Clement, seconded by
Commissioner Martin:

The Commission adopts as proposed:

WAC 390-37-001
WAC 390-37-041
WAC 390-37-103
WAC 390-37-155
WAC 390-37-160
WAC 390-37-165
WAC 390-37-170
WAC 390-37-175

The Commission amends as presented:

WAC 390-37-030
WAC 390-37-040
WAC 390-37-050
WAC 390-37-060
WAC 390-37-090
WAC 390-37-120
WAC 390-37-130
WAC 390-37-132
WAC 390-37-136
WAC 390-37-140
WAC 390-37-142
WAC 390-37-150

The Commission adopts as amended:

WAC 390-37-010
WAC 390-37-070
WAC 390-37-100
WAC 390-37-105
WAC 390-37-144

The motion passed unanimously.

Discussion of potential draft language
for rule making

Mr. Ellis briefly discussed draft language for the following rules:

WAC 390-16-050

Forms for contributions and expenditure of out-of-state or federal political committees. Amendment to incorporate legislative changes of House Bill 1294.

WAC 390-16-055

Forfeiture of contributions received from out-of-state or federal political committees. Repeal of this rule since House Bill 1294 eliminated the forfeiture provision of RCW 42.17.090.

WAC 390-19-030

Electronic filing – Reporting threshold. Amendment to reflect new threshold level effective January 1, 2004.

WAC 390-17-105

Small contributors of \$25 or less. New rule implementing the requirements of a permanent injunction issued on February 12, 2003.

Susan Harris reported on the following draft rules necessary to clarify expenditure reporting requirements:

WAC 390-16-037

Purpose of campaign expenditures – Reporting. Amendment clarifying how to detail information.

WAC 390-16-205

Expenditures by agents, employees – Reporting. Amendment clarifying itemization of expenditures by agents and employees.

WAC 390-16-041

Forms – Summary of total contributions and expenditures. Amendment to forms incorporating changes to WAC 390-16-037 and WAC 390-16-205.

Motion 04-040

Moved by Commissioner Clement, seconded by Commissioner Connelly:

The Commission authorizes staff to move forward with the rule making process.

The motion passed unanimously.

Expedited Rule Making

Mr. Ellis reported that the Lobbyist Registration (PDC Form L1) and Lobbyist Employer's Report (PDC Form L3) are being amended via the expedited process to include space for email addresses to facilitate electronic communications.

Discussion of potential amendment

Vicki Rippie briefly noted that this rule is outdated and needs to be modified to reflect current practice.

WAC 390-12-010

Public disclosure commission – regular meetings. Amendment to clarify that the November and December meetings are combined into one meeting held in early December rather than on the third Tuesday of the month.

Staff Reports

Executive Director

Vicki Rippie briefly summarized the budget status report.

Assistant Director

Susan Harris reported that the lobbyist employer and annual F1 mailings will be distributed via email, greatly reducing printing and mailing costs. She also noted that John Ammons, a college intern, will be volunteering his time in the office during the winter quarter.

Chief Technology Officer

Michael Smith updated the Commission on the status of the ORCA system and noted that many new search options have been added to the website for 2003 election information.

Assistant Attorney General

Nancy Krier briefly updated the status of current cases and pending litigation.

Executive Session

The Commission went into executive session at 10:25 a.m. to discuss pending and potential litigation with legal counsel.

Public Session/Adjournment

The Commission returned to public session at 10:35 a.m. and Commissioner Brady adjourned the meeting. The next meeting is scheduled for Wednesday, December 10, 2003.

Approved by the Commission 12/10/03